

**COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

_____)	
In the matter of:)	File No.: ACO-NE-14-4002
)	
Charter Environmental Inc.)	
)	FMF No.: 296976
(former Glenview Sand & Gravel property))	Chelmsford, Massachusetts
)	
_____)	

ADMINISTRATIVE CONSENT ORDER

I. THE PARTIES

1. The Department of Environmental Protection (“MassDEP” or “Department”) is a duly constituted agency of the Commonwealth of Massachusetts established pursuant to M.G.L. c. 21A, § 7. MassDEP maintains its principal office at One Winter Street, Boston, Massachusetts 02108, and its Northeast Regional Office at 205B Lowell Street, Wilmington, Massachusetts 01887.
2. Charter Environmental Inc. (“Charter” or “Respondent”) is a Massachusetts limited liability corporation with its principal offices located at 560 Harrison Avenue, Boston, Massachusetts 02118. Charter is an environmental contracting services and waste management company. Charter is under agreement with the landowner, Sandbanks, LLC, to complete the closure of the Glenview Landfill and other associated activities in accordance with the Solid Waste Regulations, 310 CMR 19.000.

II. STATEMENT OF FACTS AND LAW

3. MassDEP is responsible for the implementation and enforcement of: M.G.L. c. 111, §§ 150A and 150A1/2, the Solid Waste Management Regulations at 310 CMR 19.000; M.G.L. c. 21E and the Massachusetts Contingency Plan (“MCP”) at 310 CMR 40.0000; and M.G.L. c. 131, § 40 and the Wetlands Regulations at 310 CMR 10.00. MassDEP has authority under M.G.L. c. 21A, § 16 and the Administrative Penalty Regulations at 310 CMR 5.00 to assess civil

administrative penalties to persons in noncompliance with the laws and regulations set forth above.

4. The following facts and allegations have led MassDEP to issue this Consent Order¹:
- A. Sandbanks, LLC (“Sandbanks”), whose manager is Julie Foshay, is a Massachusetts limited liability corporation with its principle address at 19 Cedar Street, Wilmington, Massachusetts 01887. Sandbanks is the owner of the property known as the former Glenview Sand & Gravel Property (“Glenview”, the “Site” or the “Landfill”). Glenview is located off Stedman Street and Westford Street in Chelmsford, Massachusetts.
 - B. Glenview is an area of land that has been operated since the 1920’s primarily for the excavation of sand and gravel. Over the course of many decades, Glenview also was used for the disposal of solid waste.
 - C. In 1997, MassDEP entered into an Administrative Consent Order, ACO-NE-97-4002 (the “1997 ACO”), with Mass Gravel, Inc. (“MGI”) for the closure of the Landfill pursuant to 310 CMR 19.000. The 1997 ACO sets forth in greater detail the facts that were most relevant in entering into the 1997 ACO.
 - D. Among other things, the 1997 ACO required MGI to comply with the landfill assessment procedures set forth in 310 CMR 19.150 *Landfill Assessment Requirements* and to complete a Comprehensive Site Assessment (“CSA”) of the Site; and to submit for MassDEP review and approval and implement a Corrective Action Design (“CAD”) for the closure of the Landfill in accordance with a schedule set forth therein. The 1997 ACO was amended in ACO-NE-97-4002a, ACO-NE-97-4002b, and ACO-NE-97-4002c that, in part included extensions for completing the comprehensive site assessment and the closure of the Landfill.
 - E. On March 13, 1998, MassDEP approved the CAD, File No. P292991, (the “1998 CAD”) for the closure of the Landfill. MGI’s successor, Amalgamated Transportation, Inc. (“ATI”) submitted a modification to the 1998 CAD to MassDEP on December 12, 2000, File No. W017284, modifying the final grades on the top of the Landfill. MassDEP approved this modification on March 12, 2001.
 - F. On or around October 24, 2002, MassDEP issued a Consent Order, ACO-NE-02-4003 (the “2002 ACO”) to ATI, , for failing to meet certain deadlines in the 1997 ACO. The 2002 ACO, in part, extended the deadlines for completing the CSA and Landfill’s closure. The schedule for completing the closure and CSA of the Landfill was extended further in an amendment to the 2002 ACO executed by MassDEP and ATI on November 26, 2004.
 - G. Throughout 2009 and 2012, MassDEP met numerous times with representatives of Julie Foshay and ATI, Patrick Hannon, to resolve the outstanding capping and closure

¹ Additional facts and details on the Landfill and the history of the closure and other activities can be found in the Administrative Consent Order, ACO-NE-14-4001 executed between MassDEP and Sandbanks for the Landfill.

issues at Glenview. As of the date of this Consent Order, ATI has not completed the closure and the CSA of the Landfill.

- H. On July 16, 2013, Respondent signed an agreement with Sandbanks to complete the final closure and CSA of the Landfill. The agreement does not extend to performing corrective actions at the Site, beyond completion of the Landfill's cap and related appurtenances, or to the post-closure requirements of 310 CMR 19.142 *Landfill Post-closure Requirements* including, but not limited to, post-closure maintenance and environmental monitoring of the Landfill. As owner of the facility, Sandbanks retains ultimate responsibility for the closure and post closure monitoring and maintenance of the Landfill.
- I. MassDEP has conducted a number of inspections of the Landfill including, but not limited to, the years 2005, 2007, 2010, 2011, and 2013. During the 2005 through 2007 inspections MassDEP personnel observed, without limitation, that approximately two-thirds (2/3) of the flexible membrane liner ("FML") was exposed and uncovered; sand that had been previously placed on the FML and subsequently eroded was present in the storm water basin. During a September 20, 2010, inspection of the Landfill MassDEP personnel observed that the FML was damaged exposing approximately 2 acres of the underlying soil; during a subsequent inspection on November 3, 2010, MassDEP personnel observed additional damage to the FML had occurred increasing the area of exposed underlying soil to approximately 3.5 acres.
- J. On August 27, 2013, MassDEP personnel inspected the Landfill and observed, without limitation, that:
 - a. The majority of the fire damaged FML had been removed from the eastern slope exposing the soil beneath the FML;
 - b. Remnants of the burned FML at the toe of the eastern slope and small areas on the eastern side slope;
 - c. Some erosion of exposed areas of the eastern slope; and
 - d. An increase in the area of soil exposed at the top plateau of the Landfill where the FML had been torn.
- K. On August 26 and 27, 2013, the Respondent completed the first sampling round of the four additional sampling rounds required as part of completing the CSA of the Landfill.
- L. On October 1, 2013, Respondent submitted an application category BWP SW45 *Any Facility – Alternative Review*, Transmittal Number X257263 (the "Conceptual Closure Plan"), describing the actions Respondent proposes to take to complete the closure of the Landfill including, but not limited to:
 - a. Accepting approximately 420,000 cubic yards of grading and shaping materials to finance completing the Landfill's closure and CSA, that includes: clean soils, soils meeting MassDEP's policy "Reuse and Disposal of Contaminated Soils at Massachusetts Landfills (Policy COMM-97-001)",

street sweepings, catch basin cleanings, dewatered dredge materials, and other material as may be approved by MassDEP;

- b. Submitting for review and approval by MassDEP a plan for the temporary stockpiling of approximately 50,000 cubic yards of grading and shaping materials at the Site prior to submittal of a new Corrective Action Design (“CAD”) permit application for completing the closure of the Landfill;
- c. Entering into an Administrative Consent Order with MassDEP for performing the proposed activities; and
- d. Posting an appropriate Financial Assurance Mechanism (“FAM”) in a form approved by MassDEP in the amount necessary to complete the closure of the Site.

M. On October 16, 2013, MassDEP issued a draft decision approving the Conceptual Closure Plan for review and comment by the public and interested parties. The comment period closed on November 12, 2013, without MassDEP receiving any third party comments on the draft decision. MassDEP approved the Conceptual Closure Plan on November 20, 2013. A copy of MassDEP’s approval is attached hereto as Exhibit 1.

N. On October 23, 2013, Charter submitted a letter pursuant to the Massachusetts Environmental Policy Act Regulations (MEPA, 310 CMR 11.00) requesting an advisory opinion that no review was required under MEPA for completing the closure of the Landfill. The MEPA office issued a letter dated November 11, 2013, that the proposed project was not subject to the MEPA Regulations and that the filing of an Environmental Notification Form (“ENF”) was not required.

O. Charter and MassDEP are entering into this Administrative Consent Order to establish the requirements for Charter to complete the closure of the Landfill as described herein including, but not limited to, an enforceable schedule and stipulated penalties for noncompliance with the requirements of this Consent Order. Charter and MassDEP are not entering into this Order as the result of any existing noncompliance by Charter.

5. The following additional facts have led MassDEP to issue this Consent Order:

SOLID WASTE

A. The Landfill has not been closed in compliance with the 1998 CAD as approved by MassDEP, see Paragraph 4.G. of this Consent Order.²

² While the previously approved 1998 CAD permit was not fully constructed, there were several components that were installed in accordance with the MassDEP regulations and the approval. In the Conceptual Closure Plan prepared by Charter, the intent is to evaluate portions of the existing cap for compliance with the 1998 CAD permit and recommend any additional testing or construction activities required to complete the final cap in those areas.

B. 310 CMR 19.015 Compliance

The regulation states:

No person shall construct, modify, operate or maintain a facility except in compliance with a site assignment, permit or plan approved by the board of health or the Department, as applicable, and any authorizations issued by the Department and all conditions included in a permit, approval or authorization for said facility.

C. 310 CMR 19.043(5)(a) Duty to Comply

The regulation states:

The permittee shall comply at all times with the terms and conditions of the permit or approval, 310 CMR 19.000, M.G.L.c. 111, § 15A and all other applicable state and federal regulations.

III. DISPOSITION AND ORDER

For the reasons set forth above, MassDEP hereby issues, and Respondent hereby consents to, this Order:

6. The parties have agreed to enter into this Consent Order because they agree that it is in their own interests, and in the public interest, to proceed promptly with the actions called for herein rather than to expend additional time and resources litigating the matters set forth above. Respondent enters into this Consent Order without admitting or denying the facts or allegations set forth herein. However, Respondent agrees not to contest such facts and allegations for purposes of the issuance or enforcement of this Consent Order.

7. MassDEP's authority to issue this Consent Order is conferred by the Statutes and Regulations cited in Part II of this Consent Order.

8. Respondent shall perform the following actions:

- A. Respondent shall comply with the requirements of 310 CMR 19.000 including, but not limited to the requirements of 310 CMR 19.043(5) *Standard Conditions*, 310 CMR 19.140 *Landfill Closure Requirements*, and 310 CMR 19.150 *Landfill Assessment Requirements* applicable to the actions required by this Consent Order. This Consent Order does not extend to the requirements of 310 CMR 19.142, *Landfill Post-Closure Requirements*, or 310 CMR 19.151 *Corrective Action Requirements*, beyond those required to close the Landfill as identified in the Conceptual Closure Plan.
- B. All engineering work performed pursuant to this Consent Order shall be under the general direction and supervision of a qualified independent professional engineer (the "Engineer of Record") registered in Massachusetts and experienced in solid waste

management and design. Any contractual relationship between Respondent and the engineer for work required hereunder shall require the engineer, as a condition of the contract, to implement work consistent with the provisions of this Consent Order and all submittals required by this Consent Order shall be certified by Respondent and the Engineer of Record in compliance with 310 CMR 19.011.

- C. No later than April 1, 2016, Respondent shall complete the receipt of grading and shaping materials at the Site in accordance with the MassDEP permits and approvals.
- D. No later than October 31, 2016, Respondent shall complete installation of the cap in accordance with the Corrective Action Design (“CAD”) as approved by MassDEP pursuant to Paragraph 8.K., below, including, but not limited to, the seeding of the vegetative layer.
- E. Upon the effective date of this Consent Order, Respondent shall institute and perform the measures necessary to stabilize the existing drainage layer and vegetative layer and protect the existing FML pending completion of the final landfill cap system including, but not limited to, preparation and implementation of a Storm Water Pollution Prevention Plan (SWPPP).
- F. Respondent shall implement all measures necessary to control and prevent the generation and emission of dust wherever and whenever necessary at the Landfill, the access road, and any other areas related to or under control of Respondent to prevent nuisance conditions and/or fugitive dust emissions. Water shall not be used for dust control in amounts that produce excessive infiltration, ponding, runoff or erosion.
- G. Construction activities at the Landfill including, without limitation the receipt, placement, spreading, and grading of shaping and grading materials shall be restricted to between the hours of 7 AM to 6 PM, Monday through Saturday.³ This provision does not limit Respondent’s obligation to comply with any operational hours established by the Town of Chelmsford pursuant to its’ authorities.
- H. Prior to the receipt of grading and shaping material at the Landfill, the Respondent shall:
 - a. Furnish to the Department a Financial Assurance Mechanism (“FAM”), in accordance with 310 CMR 19.051, in the amount of Two Million Nine Hundred Eighty-two Thousand Dollars (\$2,982,000) to assure completion of all the obligations of this Consent Order. This FAM shall be reviewed periodically and adjusted as required by 310 CMR 19.051; and
 - b. At least seven (7) days prior to the start of the receipt of grading and shaping material at the Landfill shall notify MassDEP, the Town of Chelmsford, and the City of Lowell of the date that the receipt of shaping and grading material will begin and shall include with the notice a health and safety plan(s) for performing the closure activities at the Landfill.

³ On-site construction may take place outside of these times to augment and repair storm water controls or prepare the Site to minimize potential off-site nuisance conditions provided that Charter notifies MassDEP, the Town of Chelmsford, and City of Lowell of the work.

- I. Respondent shall not accept and stockpile more than 50,000 cubic yards of grading and shaping material and 10,000 cubic yards of asphalt pavement, brick and concrete (“ABC”) materials for road construction at the Landfill prior to MassDEP approval of the Corrective Action Design required by Paragraph 8.K. of this Consent Order. Respondent shall manage the materials accepted pursuant to this Paragraph in accordance with the Material Stockpile Plan (“MSP”) dated January 16, 2014⁴ as approved by MassDEP including, but not limited to, all requirements of MassDEP’s approval of the MSP, any modifications to the MSP as approved by MassDEP, and 310 CMR 19.000.
- J. Respondent may commence the receipt and stockpiling of grading and shaping material at the Landfill pursuant to the MSP on the effective date of MassDEP’s decision approving the MSP⁵ provided that Respondent has provided to MassDEP the notices and copies of the Health and Safety Plan required by Paragraph 8.H. of this Consent Order.
- K. On or before April 11, 2014, Respondent shall submit to MassDEP for review and approval and subject to the procedures of Paragraph 8. N. of this Consent Order an application, category BWP SW 25 *Corrective Action Design*, for completion of the closure of the Landfill. The CAD application shall include, but not be limited to, the design plans, specifications and details for completing the closure and an overall project schedule for the major project milestones.
- L. No later than September 30, 2014, Respondent shall submit to MassDEP for review and approval and subject to the procedures of Paragraph 8.N. of this Consent Order an application, category BWP SW23 *Comprehensive Site Assessment*, presenting the results of the investigations conducted pursuant to Paragraph 4.K. of this Consent Order (the “Supplemental CSA Report”) complying with 310 CMR 19.150 and that includes, without limitation the following:
 - a. Summary of historic and revised subsurface explorations and removal actions in the vicinity of the Site;
 - b. Results from the two completed and two additional rounds of water quality sampling of the existing and any new groundwater monitoring wells down gradient of the Site;
 - c. An evaluation of the potential for groundwater from the Site to migrate into the Zone II located to the south of the Site established by the Town of Chelmsford for their water supply wells;
 - d. A qualitative risk assessment evaluating the impacts of water quality around the Site on human health, safety and the environment;
 - e. An interim monitoring plan for groundwater and surface water during the cap construction process; and

⁴ On March 6, 2014, Langdon Environmental LLC submitted revised MSP titled: *Revised Materials Management Plan, Interim Stockpiling Operations, Glenview Landfill, Chelmsford, Massachusetts*. This plan as approved by MassDEP constitutes the MSP for the interim stockpiling of grading and shaping material.

⁵ Respondent, MassDEP, and Sandbanks have agreed that the decision on the MSP shall be issued as a provisional decision pursuant to 310 CMR 19.033(4)(a) with a deferred effective date to allow at least 21 days after the date of issuance for the submittal of public comments to MassDEP. The decision shall take effect on the deferred effective unless MassDEP determines based on significant comments, if any, that the decision should be rescinded or modified.

- f. If necessary, a scope of work for conducting any additional activities necessary to complete delineation of the extent and impact of contamination at the Site.
- M. No later than ninety (90) days after closure of the Landfill is completed, Respondent shall submit to MassDEP for review and approval subject to the procedures of Paragraph 8.N. of this Consent Order, a Closure Certification Report prepared by the Engineer of Record that complies with 310 CMR 19.000 including, but not limited to the requirements of 310 CMR 19.107: *Construction Certification*, and 310 CMR 19.140: *Landfill Closure Requirements*, that, without limitation, shall include complete “as built” plans of the landfill closure and Quality Control/Quality Assurance documentation⁶ of the construction.
- N. Respondent shall submit all applications required by this Consent Order to MassDEP together with all applicable fees required under 310 CMR 4.00. The Respondent shall provide any additional information required by MassDEP on an application, without limitation, including that required by any Notice of Administrative or Technical Deficiency issued by MassDEP pursuant to 310 CMR 4.00, within forty-five (45) days of the date of such notice or request, unless Respondent requests and MassDEP approves, at its sole discretion, an alternative schedule.
- O. Respondent shall provide MassDEP with both electronic and paper copies of all documents and correspondence submitted to MassDEP pursuant to this Consent Order including, but not limited to, that required by Paragraph 8 of this Consent Order.
- P. Respondent agrees to provide MassDEP, and MassDEP’s employees, representatives and contractors, access at all reasonable times and without notice to the Landfill for purposes of conducting any activity related to its oversight of this Consent Order including without limitation to conduct inspections, take air quality readings, collect environmental samples, collect samples of shaping and grading material, or other samples. In addition, Respondent agrees to provide MassDEP, and MassDEP’s employees, representatives and contractors, access at any time and without notice to the Landfill in response to complaint of odors or emissions from the Landfill. Notwithstanding any provision of this Consent Order, MassDEP retains all of its access authorities and rights under applicable state and federal law.
- Q. Respondent agrees to maintain and make available to MassDEP, and MassDEP’s employees, representatives and contractors, access to records documenting the activities at the Landfill that shall include without limitation records on the shaping and grading material received at the Landfill including without limitation 21E Bill of Ladings, Material Shipping Records, and supporting reports and analytical data and the Monthly Reports, Engineer’s Reports and Daily Logs required by this Consent Order. Respondent

⁶ QA/QC documentation shall include, but is not limited to, by direct measurement and observation by a representative of the Engineer of Record, demonstration that all soils have been placed in depth and kind to the approved specifications. Wherein the specification state minimum or maximum all measurements shall individually meet the specification. Wherein materials not meeting the specification are received the QA/QC shall document the disposition of the materials.

shall also maintain a copy of the health and safety plan and documentation that site personnel have been trained pursuant to the health and safety plan at the Site.

- R. Respondent shall perform routine inspections of the Landfill in accordance with the requirements of this Paragraph and the approved plans to ensure compliance with this Consent Order:
- a. For every day that construction activities take place, conduct a daily inspection and assessment of the status and condition of the Landfill⁷ and construction activities. This shall include, but not be limited to the monitoring of the Landfill for the occurrence of nuisance odors, dust, and noise, and storm water run-off from the Landfill and any necessary corrective actions.
 - b. Maintain at the Landfill a Daily Log that summarizes the daily inspection, and includes, but is not limited to:
 - i. A daily summary that describes, without limitation, the principle activities at the Landfill that day such as, site grading, excavation, storm water system maintenance, and notable construction milestones;
 - ii. A description of any deviations from the approved plans, and the Consent Order;
 - iii. A description of corrective actions, maintenance, or repairs taken, or to be taken, to mitigate or correct problems or potential/actual nuisance conditions;
 - iv. Documentation of all reporting/notifications made to MassDEP, the Board of Health and other authorities/agencies/emergency responders/facilities, as necessary, in accordance with the Notification Requirements of Paragraph 8.X. of this Consent Order; and
 - v. Documentation of any complaints received by Respondent relative to the activities at the Landfill that includes, but is not limited, to the name/identity of the complainant and the complainant's contact information (if provided to Respondent), the date and time of the complaint, the nature of the complaint, and Respondent's response to the complaint including any actions taken by Respondent.
- S. Respondent shall have a qualified employee of the Respondent (the "Inspector(s)") conduct weekly inspections of the Landfill, including, but not limited to the receipt and placement of grading and shaping material, construction activities, and project status as described in the approved permit documents.
- T. Respondent shall have the Engineer of Record or his/her qualified direct employee(s)⁸ (the "Inspector(s)") conduct routine inspections (the "Engineer's Inspection") of the Landfill, construction activities and project status as described in the approved permit documents. These inspections are not in lieu of any inspections, oversight or reporting

⁷This includes but is not limited to structures, equipment, devices, storm water management controls, environmental control systems, paved surfaces, fencing, gates, and other areas.

⁸ For purposes of this decision "qualified direct employee" means an individual, qualified and knowledgeable in the construction of solid waste facilities, employed by and directly responsible to the Engineer of Record and not Respondent.

necessary to oversee the construction activities at the Landfill for purposes of preparing the certification report required by Paragraph 8.M. of this Consent Order and complying with 310 CMR 19.011 *Certification*, 310 CMR 19.106 *Quality Assurance and Quality Control Requirements*, 310 CMR 19.107 *Construction Certification*, and 310 CMR 19.151(4) *Oversight of Corrective Action Implementation*. The Respondent shall not be given prior notice of any inspection pursuant to this Paragraph.

- U. The Inspector(s) shall have adequate training, knowledge and understanding of all applicable regulations, the requirements of this Consent Order and all applicable plans and approvals and shall during the weekly and Engineer's Inspections:
 - a. Thoroughly evaluate the project status and identify actual or potential deviations from the applicable regulations, the requirements of this Consent Order and all applicable plans and approvals;
 - b. Observe the activities at the Landfill including, but not limited to the, receipt and placement of shaping and grading material at the Site;
 - c. Review the Daily Log;
 - d. Review the shipping documentation (21E BOLs, MSRs) for shaping and grading material received at the Site since the last Engineer's Inspection; and
 - e. Review data and results from any confirmatory testing samples collected on-site and make determinations as to the removal of grading and shaping materials from the Site.
- V. The Inspector(s) shall prepare a written construction monitoring report of each inspection, as set forth in this Paragraph (the "Construction Monitoring Reports"), and shall submit that report to the Engineer of Record in a timely manner. The Engineer of Record shall review the Inspector's reports and shall submit not later than the 15th day of each month the Engineer of Record printed and electronic copies of the Construction Monitoring Reports for the preceding month directly to MassDEP. Respondent shall also provide copies to the Boards of Health of the Town of Chelmsford and City of Lowell. A copy of each Construction Monitoring Report shall also be made available at the Landfill to authorized representatives of MassDEP and the Town and the City, upon request. Each Construction Monitoring Report shall be signed, dated, and certified in accordance with 310 CMR 19.011(1) by the Inspector, the Site Engineer, and Respondent, and shall, without limitation:
 - a. Document the conditions and construction activities at the time of the inspection and the project progress since the previous inspection;⁹
 - b. Provide a summary of any complaints received regarding the Landfill including, but not limited to, the nature of the complaint, the action taken, the complainant (if known), and any recommendations for actions;
 - c. Include a tabular summary by source of the types and quantities of grading and shaping material received at the Landfill, since the last inspection, that also includes any loads of grading and shaping material rejected at the Landfill;

⁹ As examples, depending on the project phase, the Construction Monitoring Report may document: Site preparation activities, installation and maintenance of erosion and sediment controls, excavation; Site stabilization, grading, and amounts and types of grading and shaping materials received and rejected, etc.

- d. Include the analytical results of any sample(s) collected during the inspection in a tabular format¹⁰ with the laboratory analytical reports and chain-of-custody documents as attachments, provided that the analytical results may be submitted to MassDEP separately no later than forty-five (45) days after the date of the inspection, if not available for submittal with the inspection report;
 - e. Identify any actual or potential deviations from the applicable regulations, the requirements of this approval, and all applicable plans and approvals;
 - f. In the event a condition of actual or potential deviation is identified, shall:
 - i. describe the deviation/issue,
 - ii. identify the action(s) Respondent took or intends to take to correct the deviation/issue and a schedule for taking the action(s), and
 - iii. include photographs documenting the condition of the Landfill and construction progress.
- W. Respondent shall provide MassDEP, within fourteen (14) calendar days of the date of receiving written comments from MassDEP¹¹ on a Construction Monitoring Report, a written response that includes, without limitation, any information that MassDEP reasonably requires. This provision does not limit MassDEP's right to request information pursuant to 310 CMR 19.000, 310 CMR 40.0000, the Massachusetts Contingency Plan (the "MCP"), and 310 CMR 30.000, the Massachusetts Hazardous Waste Regulations or any other applicable state, federal, or local law or regulation.
- X. Respondent shall comply with the notifications described in this section and 310 CMR 19.043(5)(i), *Duty to Inform*. These notifications are in addition to, and shall not substitute for, any other notification(s) which are required pursuant to 310 CMR 40.0000, the Massachusetts Contingency Plan (the "MCP"), and 310 CMR 30.000, the Massachusetts Hazardous Waste Regulations or any other applicable state, federal, or local law or regulation. Respondent shall notify MassDEP and the Town of Chelmsford and City of Lowell Boards of Health within twenty-four (24) hours, but in no case greater than within forty-eight (48) hours of the Engineer of Record, Respondent, or contractor(s), becoming aware of:
- a. The occurrence of any conditions or events at the Landfill that result in off-site nuisance conditions or a threat to the public health, safety, welfare or the environment;
 - b. The details of any incidents that resulted in the response of emergency personnel (fire, police, MassDEP Emergency Response personnel, the Occupational Health and Safety Administration, etc.) to the Landfill; and
 - c. The receipt by Respondent of any complaint of off-site nuisance conditions attributed to the Landfill.

This written notification shall be made by FAX to MassDEP's Solid Waste Management Section, Northeast Regional Office at (978) 694-3499 or by email to

¹⁰ Note the Practical Quantification Limit (PQL) shall be reported in the tabular summary for samples below the PQL for the analytical method. The samples shall not be reported as non-detect (ND).

¹¹ MassDEP may at its sole discretion upon request of Respondent extend the fourteen (14) day time period for responding to MassDEP's comments.

John.Carrigan@state.ma.us. If a FAX or email is not available, the notification may be made by telephone to (978) 694-3299. Such notification by telephone, email, or FAX shall be followed up by a certified letter within seven calendar (7) days.

This notice shall, at a minimum, include a description of the incident and/or complaint, the impact on the construction activities, and a description of any corrective actions Respondent has taken or intends to take to minimize the potential for a recurrence.

- Y. Respondent shall provide both the Town Managers and Board of Healths of the Town of Chelmsford and the City of Lowell copies of all documents and correspondence submitted to MassDEP within one (1) business day of the date of their submittal to MassDEP. This provision does not relieve Respondent's obligation to comply with a shorter timeframe required by any applicable federal, state, or local laws, regulations, or approvals.
 - Z. Respondent may request, and MassDEP may at its sole discretion, extend any deadline established under this Section.
9. Except as otherwise provided, all notices, submittals and other communications required by this Consent Order shall be directed to:

John Carrigan, Chief
MassDEP --Northeast Regional Office
Solid Waste Management Section
205B Lowell Street
Wilmington, MA 01887

10. Such notices, submittals and other communications shall be considered delivered by Respondent upon receipt by MassDEP.
11. Actions required by this Consent Order shall be taken in accordance with all applicable federal, state, and local laws, regulations and approvals. This Consent Order shall not be construed as, nor operate as, relieving Respondent or any other person of the necessity of complying with all applicable federal, state, and local laws, regulations and approvals.
12. MassDEP hereby determines, and Respondent hereby agrees, that the deadlines set forth above constitute reasonable periods of time for Respondent to take the actions described.
13. Respondent understands, and hereby waives, its right to an adjudicatory hearing before MassDEP on, and judicial review of, the issuance and terms of this Consent Order and to notice of any such rights of review. This waiver does not extend to any other order issued by the MassDEP.
14. This Consent Order may be modified only by written agreement of the parties hereto.
15. The provisions of this Consent Order are severable, and if any provision of this Consent Order or the application thereof is held invalid, such invalidity shall not affect the validity of other provisions of this Consent Order, or the application of such other provisions, which can be

given effect without the invalid provision or application, provided however, that MassDEP shall have the discretion to void this Consent Order in the event of any such invalidity.

16. Nothing in this Consent Order shall be construed or operate as barring, diminishing, adjudicating or in any way affecting (i) any legal or equitable right of MassDEP to issue any additional order or to seek any other relief with respect to the subject matter covered by this Consent Order, or (ii) any legal or equitable right of MassDEP to pursue any other claim, action, suit, cause of action, or demand which MassDEP may have with respect to the subject matter covered by this Consent Order, including, without limitation, any action to enforce this Consent Order in an administrative or judicial proceeding. Respondent reserves any rights it may have to appeal or defend any such order, claim, action, suit, cause of action, or demand, except that Respondent shall not challenge the validity, terms and binding nature of this Consent Order.

17. This Consent Order shall not be construed or operate as barring, diminishing, adjudicating, or in any way affecting, any legal or equitable right of MassDEP or Respondent with respect to any subject matter not covered by this Consent Order.

18. This Consent Order shall be binding upon Respondent and upon Respondent's successors and assigns. Respondent shall not violate this Consent Order and shall not allow or suffer Respondent's members, managers, employees, agents, contractors or consultants to violate this Consent Order. Until Respondent has fully complied with this Consent Order, Respondent shall provide a copy of this Consent Order to each successor or assignee at such time that any succession or assignment occurs.

19. Respondent shall pay stipulated civil administrative penalties to the Commonwealth in accordance with the following schedule if Respondent violates this Consent Order:

For each day, or portion thereof, of each violation, Respondent shall pay stipulated civil administrative penalties in the following amounts:

Period of Violation	Penalty per day
1st through 15th days	\$ 1,000 per day
16th through 30th days	\$ 2,000 per day
31st day and thereafter	\$ 5,000 per day

Stipulated civil administrative penalties shall begin to accrue on the day a violation occurs and shall continue to accrue until the day Respondent corrects the violation or completes performance, whichever is applicable. Stipulated civil administrative penalties shall accrue regardless of whether MassDEP has notified Respondent of a violation or act of noncompliance. All stipulated civil administrative penalties accruing under this Consent Order shall be paid within thirty (30) days of the date MassDEP issues Respondent a written demand for payment. If a court judgment is necessary to execute a claim for stipulated penalties under this Consent Order, Respondent agrees to assent to the entry of such judgment. If simultaneous violations occur, separate penalties shall accrue for separate violations of this Consent Order. The payment of stipulated civil administrative penalties shall not alter in any way Respondent's obligation to complete performance as required by this Consent Order. MassDEP reserves its right to elect to pursue alternative remedies and alternative civil and criminal penalties which may be available

by reason of Respondent's failure to comply with the requirements of this Consent Order. In the event MassDEP collects alternative civil administrative penalties, Respondent shall not be required to pay stipulated civil administrative penalties pursuant to this Consent Order for the same violations.

Respondent reserves whatever rights it may have to contest MassDEP's determination that Respondent failed to comply with the Consent Order and/or to contest the accuracy of MassDEP's calculation of the amount of the stipulated civil administrative penalty.

20. Respondent shall pay all civil administrative penalties due under this Consent Order, including suspended and stipulated penalties, by certified check, cashier's check, or money order made payable to the Commonwealth of Massachusetts. Respondent shall clearly print on the face of its payment Respondent's full name, the file number appearing on the first page of this Consent Order, and the Respondent's Federal Employer Identification Number, and shall mail it to:

Commonwealth of Massachusetts
Department of Environmental Protection
Commonwealth Master Lockbox
P.O. Box 3982
Boston, Massachusetts 02241-3982

Respondent shall simultaneously mail a copy of the payment to:

John Carrigan, Chief
MassDEP --Northeast Regional Office
Solid Waste Management Section
205B Lowell Street
Wilmington, MA 01887

In the event Respondent fails to pay in full any civil administrative penalty as required by this Consent Order, then pursuant to M.G.L. c. 21A, § 16, Respondent shall be liable to the Commonwealth for up to three (3) times the amount of the civil administrative penalty, together with costs, plus interest on the balance due from the time such penalty became due and attorneys' fees, including all costs and attorneys' fees incurred in the collection thereof. The rate of interest shall be the rate set forth in M.G.L. c. 231, § 6C.

21. Failure on the part of MassDEP to complain of any action or inaction on the part of Respondent shall not constitute a waiver by MassDEP of any of its rights under this Consent Order. Further, no waiver by MassDEP of any provision of this Consent Order shall be construed as a waiver of any other provision of this Consent Order.

22. Respondent agrees to provide MassDEP, and MassDEP's employees, representatives and contractors, access at all reasonable times to Glenview for purposes of conducting any activity related to its oversight of this Consent Order. Notwithstanding any provision of this Consent

Order, MassDEP retains all of its access authorities and rights under applicable state and federal law.

23. The undersigned certify that they are fully authorized to enter into the terms and conditions of this Consent Order and to legally bind the party on whose behalf they are signing this Consent Order.

24. This Consent Order shall become effective on the date that it is executed by MassDEP.

25. Respondent's obligations under this Consent Order shall cease upon Respondent's completion of all actions and payments required pursuant to Paragraphs 8, 19, and 20 of this Consent Order and MassDEP's issuance of a return to compliance letter stating that Respondent has completed the requirements of said Paragraphs.

Consented To:

CHARTER ENVIRONMENTAL, LLC

By:

Robert L. Delhome, President
Charter Environmental, Inc.
560 Harrison Avenue, 5th Floor
Boston, Massachusetts 02118
Telephone (978) 658-2232

Date: _____

Federal Employer Identification No.: _____

Issued By:

DEPARTMENT OF ENVIRONMENTAL PROTECTION

By:

This final document copy is being provided to you electronically by the
Department of Environmental Protection. A signed copy of this document
is on file at the DEP office listed on the letterhead.

Eric Worrall, Acting Regional Director
Northeast Regional Office
205B Lowell Street
Wilmington, Massachusetts 01887
Telephone (978) 694-3200

Date: _____

Exhibit 1

Conceptual Closure Plan

MassDEP Approval

November 20, 2013